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COURT FEE 5 Rs. भारत INDIA पांच रुपये FIVE RUPEES

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

CONTEMPT CASE (CRIMINAL) NO. 01 /2006

HON'BLE DIVISON BENCH

PETITIONER : **JAI MA BHAWANI SAMITI GAUSHALA**

Through : President Devendra Kumar Pandey, Out-Post- Urga, District - Korba (C.G.)

VERSUS

IN REF. :-

CONTEMNERS :1. **SHRI G.K. MISHRA**

Additional Sessions Judge KORBA, Tahsil and District Korba (C.G.)

2. **SHIV CHARAN**

Aged 39 years

S/o. Shri Abhiram Gautam

R/o. Village- Khod, Police-Station Akaltara, District - Janjgir- Champa (C.G.)

CONTEMPT PETITION UNDER SECTION 12 OF THE CONTEMPT OF COURT, 1971 TO INITIATE SUO-MOTU CONTEMPT PROCEEDINGS

Filed on 15/9/06 by Shri V.A. Tawri Advocate
RECEIVED COPY 15/9/06 CLERK TO A. G. BILASPUR

(29)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

Cri. Contempt (IR) No. 4015/06

मामला क्रमांक ..... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

03/01/2007

Shri V.G. Tamaskar, Counsel for the petitioner.

Shri A.S. Kachhawaha, Govt. Advocate for the State.

None for contemnors No. 1 and 2.

Heard.

In Crime No. 14/2006 under Sections 4, 6, 10 & 11 of the Chhattisgarh Agricultural Cattle Prevservation Act, 1995, seventy-six agricultural cattles seized from the custody of Shiv Charan (herein contemnor no.2 were given to custody of the petitioner. Shiv Charan moved an application for custody of those animals on Suprudnama on 17/04/2006 before the Judicial Magistrate First Class, Korba, who vide order dated 22/04/2006 rejected the same. Feeling aggrieved, Shiv Charan filed a criminal revision bearing No. 13/2006 before the Court of Shri G.K. Mishra, Additional Sessions Judge, Korba (herein contemnor No.2) who vide order dated 17/05/2006 allowed the revision and directed to handover the custody of all those agricultural cattles on Suprudnama to Shiv Charan. Shiv Charan filed Suprudnama in the Court of Judicial Magistrate First Class, Korba, who issued order for returning those cattles to Shiv Charan, but neither R.P. Dwivedi, A.S.I, Police Station Kartala nor Devendra Kumar Pandey, President, Jai Ma Bhawani Samiti adhered to it. Therefore, a contempt petition has been moved by Shiv Charan in the Court of Shri G.K. Mishra, Additional Sessions Judge, Korba. In the meantime, Jai Ma Bhawani Samiti through President Devendra Kumar Pandey (herein petitioner) moved an application before this Court under Section 482 of the Cr.P.C.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

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In that proceeding i.e.,under Section 482 of the Cr.P.C.,. learned counsel for the petitioner stated at Bar that all the cattles given in possession of the petitioner by the Police are still in their possession and the order dated 17/05/2006 passed by the revisional Court has not so far been executed. In view of that, this Court directed that the impugned order passed by the revisional Court on 17/05/2006 shall remain stayed.

When Additional Sessions Judge, Korba, in contempt proceeding served notice on R.P. Dwivedi and Devendra Kumar Pandey, Devendra Kumar Pandey opposed the application and one of the grounds taken by him was that the High Court vide order dated 06/07/2006 has stayed the execution of the order dated 17/05/2006 passed by the revisional Court. Shri G.K. Mishra, Additional Sessions Judge, Korba, considered the objection and passed the order on 08/08/2006 wherein he has stated that High Court has stayed the operation of the order dated 17/05/2006 passed in Criminal Revision No. 13/2006. High Court has not stayed any proceeding which is initiated for disobedience of orders passed by the subordinate Court and proceeded with contempt proceedings.

This contempt petition has been filed on the ground that Additional Sessions Jude Shri G.K. Mishra, has defied the order passed by this Court in a very contemptuous manner. This Court vide order dated 06/07/2007 relying on the statement of learned counsel for the petitioner stayed the revisional Court's order dated 17/05/2006, but prior to passing of the order dated 06/07/2006, if Court belows have passed any orders and those orders have been dis-obeyed by any authority or person, those authorities or persons cannot take shelter of this Court's

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

order for their willful default. The judicial order passed by the Additional Sessions Judge does not appear to be any willful disobedience of this Court's order. Therefore, I am of the view that Additional Sessions Judge, Korba, who has passed the order on 08/08/2006 in Miscellaneous Case No.4/2006, did not commit any contempt. So far as Shiv Charan is concerned, on his application contempt proceeding is pending before the Additional Sessions Judge, filing of contempt petition does not bring him within the edifice of contemnor.

In the result, the petition filed by the petitioner is liable to be dismissed and is accordingly dismissed.

Sd/-
V.K. Shrivatava
Judge

Raju